IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE C.N.RAMACHANDRAN NAIR

TUESDAY, THE 24TH JULY 2007 / 2ND SRAVANA 1929

WP(C).No. 22657 of 2007(V)

PETITIONER:

M/S.INTERNATIONAL CREATIVE FOODS LTD.,
AMALGAMAM HOUSE, BRISTO ROAD, W/ISLAND,
COCHIN-3, A PUBLIC LIMITED COMPANY REPRESENTED BY
ITS DIRECTOR, SRI.A.J.THARAKAN.

BY ADV. SRI.E.P.GOVINDAN

RESPONDENTS:

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1. THE COMMERCIAL TAX OFFICER,
SECOND CIRCLE, MATTANCHERRY, ERNAKULAM DISTRICT.

2. THE SPECIAL TAHSILDAR (RR), KOCHI,
ERNAKULAM DISTRICT.

3. STATE OF KERALA REPRESENTED BY
SECRETARY, TAXES DEAPRTMENT,
GOVERNMENT SECRETARIAT, TRIVANDRUM.

BY G.P. SRI.C.K.GOVINDAN

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 24/07/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

C.N.RAMACHANDRAN NAIR, J.

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W.P.(C) No.22657 of 2007

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Dated this the 24th day of July, 2007.

JUDGMENT

The petitioner is challenging Ext.P1 proceedings by which the Tahsildar has demanded interest of Rs.17,39,788/- for the arrears of tax due for several years. Counsel for the petitioner contended that calculation of interest by the Tahsildar is not in accordance with the statute. Moreover, he has pointed out that the rate of interest charged at 2% per month under Section 23(3) of the KGST Act is reduced to 1% per month with effect from 1.4.2005. It is also submitted that revised assessments are not issued by the Assessing Officer pursuant to orders of the Tribunal namely, Exts.P4 and P5. Interest under Section 23(3) is payable from the original date of default i.e. from the date of service of assessment order and even during periods of stay, interest could be recovered. However, the interest should be charged for such period not on the original demand, but on the demand ultimately sustained in revised assessment based on orders in appeal or revision. In the circumstances, W.P. is disposed of directing the first respondent to revise all assessments based on orders in appeal or revision and rework interest under Section 23(3) after giving credit for the payments made by the petitioner.

The petitioner shall produce receipts of payment made to the recovery authorities so that interest is worked out by the Assessing Officer for the actual period of default. The first respondent will issue revised orders within three weeks from date of production of copy of this judgment along with details. The second respondent is directed to withhold recovery proceedings for two months from now and thereafter recovery will be only for the actual amount payable by the petitioner. First respondent should consider Ext.P1 and if mistakes are there in the interest calculation by the Tahsildar, correction should be carried on by the first respondent and the revised proceedings should be communicated to the Tahsildar so that there is no conflict in demand by both the authorities. If petitioner makes payment voluntarily, no collection charges should be recovered under Rule 5 of the Revenue Recovery Rules.

W.P. is disposed of as above.

C.N.RAMACHANDRAN NAIR
Judge

pms